

MONTANA LEGISLATIVE HISTORY

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Chapter 626 1993

Bill H 411 S _____

Original bill & history ✓ C

H. Committee on Judiciary

Hearing Date(s) Feb 05 ✓ C

Feb 12 ✓ C

_____ C

_____ C

Date Out Feb 16 ✓ C

S. Committee on Judiciary

Hearing Date(s) Mar 12 ✓ C

Mar 26 ✓ C

_____ C

_____ C

Mar 26 ✓ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

3/11	3RD READING CONCURRED	45	3
	RETURNED TO HOUSE WITH AMENDMENTS		
3/31	2ND READING AMENDMENTS CONCURRED	87	10
4/02	3RD READING AMENDMENTS CONCURRED	73	27
4/07	SIGNED BY SPEAKER		
4/13	SIGNED BY PRESIDENT		
4/14	TRANSMITTED TO GOVERNOR		
4/19	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 402		
	EFFECTIVE DATE: 10/01/93		

HB 411 INTRODUCED BY R. JOHNSON, ET AL.
 GENERALLY REVISE PUBLIC GAMBLING AND AMUSEMENT GAME LAWS OF
 MONTANA

BY REQUEST OF DEPARTMENT OF JUSTICE

1/30	INTRODUCED		
1/30	REFERRED TO JUDICIARY		
1/30	FIRST READING		
2/05	HEARING		
2/05	FISCAL NOTE REQUESTED		
2/11	FISCAL NOTE RECEIVED		
2/17	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/18	2ND READING PASSED AS AMENDED	82	18
2/20	3RD READING PASSED	78	19
	TRANSMITTED TO SENATE		
2/22	FIRST READING		
2/22	REFERRED TO JUDICIARY		
3/17	HEARING		
3/27	COMMITTEE REPORT—BILL CONCURRED		
3/31	2ND READING CONCURRED	48	1
4/01	3RD READING CONCURRED	47	1
	RETURNED TO HOUSE		
4/13	SIGNED BY SPEAKER		
4/14	SIGNED BY PRESIDENT		
4/16	TRANSMITTED TO GOVERNOR		
4/19	RETURNED TO HOUSE WITH GOVERNOR'S AMENDMENTS		
4/22	2ND READING GOVERNOR'S AMENDMENTS CONCURRED	79	19
4/22	3RD READING GOVERNOR'S AMENDMENTS CONCURRED	81	17
	TRANSMITTED TO SENATE		
4/24	2ND READING GOVERNOR'S AMENDMENTS CONCURRED	49	0
4/24	3RD READING GOVERNOR'S AMENDMENTS CONCURRED	49	0
4/28	SIGNED BY SPEAKER		
4/28	SIGNED BY PRESIDENT		
4/29	TRANSMITTED TO GOVERNOR		
5/10	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 626		
	EFFECTIVE DATE: 10/01/93		

HB 412 INTRODUCED BY MENAHAN, ET AL.
 LIMIT NUMBER OF GAME FARM LICENSES THAT MAY BE ISSUED BY
 DEPARTMENT OF FISH, WILDLIFE, AND PARKS

1/30 INTRODUCED

HOUSE BILL NO. 411

INTRODUCED BY R. JOHNSON, YELLOWTAIL, WANZENRIED
BY REQUEST OF THE DEPARTMENT OF JUSTICE

IN THE HOUSE

JANUARY 30, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 17, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 18, 1993	PRINTING REPORT.
	SECOND READING, DO PASS AS AMENDED.
FEBRUARY 19, 1993	ENGROSSING REPORT.
FEBRUARY 20, 1993	THIRD READING, PASSED. AYES, 78; NOES, 19.
FEBRUARY 22, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 22, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 27, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 31, 1993	SECOND READING, CONCURRED IN.
APRIL 1, 1993	THIRD READING, CONCURRED IN. AYES, 47; NOES, 1.
	RETURNED TO HOUSE.

IN THE HOUSE

APRIL 2, 1993	SENT TO ENROLLING.
APRIL 13, 1993	REPORTED CORRECTLY ENROLLED.
	SIGNED BY SPEAKER.

IN THE SENATE

APRIL 14, 1993

SIGNED BY PRESIDENT.

IN THE HOUSE

APRIL 16, 1993

DELIVERED TO GOVERNOR.

APRIL 19, 1993

RETURNED FROM GOVERNOR WITH
RECOMMENDED AMENDMENTS.

APRIL 22, 1993

SECOND READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

THIRD READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

IN THE SENATE

APRIL 24, 1993

SECOND READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

THIRD READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

IN THE HOUSE

APRIL 24, 1993

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 411
2 INTRODUCED BY Gortson Yellowtail ~~WANTON~~
3 BY REQUEST OF THE DEPARTMENT OF JUSTICE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
6 PUBLIC GAMBLING AND AMUSEMENT GAME LAWS OF MONTANA; REVISING
7 THE COMPENSATION FOR GAMING ADVISORY COUNCIL MEMBERS;
8 REVISING THE DEFINITIONS OF BINGO, DISTRIBUTOR, LICENSE,
9 MANUFACTURER, AND PROMOTIONAL GAME OF CHANCE; REVISING THE
10 METHOD FOR DISTRIBUTING FINES, PENALTIES, AND FORFEITURES;
11 REQUIRING THE DEPARTMENT OF JUSTICE TO HAVE CLEAR AND
12 CONVINCING EVIDENCE BEFORE ISSUING A TEMPORARY CEASE AND
13 DESIST ORDER; STATING THE TYPES OF EVIDENCE TO BE PRESENTED
14 DURING AN ADMINISTRATIVE PROCEEDING; DEFINING CONDITIONS
15 UNDER WHICH AN ILLEGAL GAMBLING DEVICE MAY BE BROUGHT INTO
16 THE STATE FOR EXPORT PURPOSES; PROVIDING PENALTIES FOR
17 CREDIT GAMBLING AND UNDERAGE GAMBLING VIOLATIONS; REVISING
18 SHAKE-A-DAY PROVISIONS; CLARIFYING PROVISIONS REGARDING THE
19 GRANTING OF CERTAIN GAMBLING PERMITS TO PERSONS WITHOUT
20 ON-PREMISES CONSUMPTION ALCOHOLIC BEVERAGES LICENSES;
21 REVISING CARD GAME TOURNAMENT PROVISIONS; PROVIDING THAT AN
22 OPERATOR IS ALSO LIABLE FOR A VIOLATION INVOLVING OPERATION
23 OF A LIVE CARD ROOM TABLE BY A LICENSED CARD ROOM
24 CONTRACTOR; LIMITING THE PAYOUT ON CERTAIN PROMOTIONAL GAMES
25 OF CHANCE; LIMITING SPORTS POOLS TO EVENTS INVOLVING NATURAL

1 PERSONS; CREATING A DISTRIBUTOR'S LICENSE AND A ROUTE
2 OPERATOR'S LICENSE; DEFINING ALLOWABLE COMPENSATION FOR
3 ROUTE OPERATORS; ALLOWING THE SALE OF VIDEO GAMBLING
4 MACHINES BY AN OPERATOR OR LIENHOLDER; REVISING CERTAIN
5 PROVISIONS RELATING TO VIDEO GAMBLING MACHINES; EXPANDING
6 COURT JURISDICTION OVER GAMBLING VIOLATIONS BY YOUTHS;
7 REVISING AMUSEMENT GAME PROVISIONS; AMENDING SECTIONS
8 2-15-2021, 23-5-112, 23-5-123, 23-5-136, 23-5-152, 23-5-157,
9 23-5-158, 23-5-160, 23-5-306, 23-5-312, 23-5-317, 23-5-324,
10 23-5-412, 23-5-602, 23-5-611, 23-5-625, 23-5-631, 23-6-104,
11 AND 41-5-203, MCA; AND PROVIDING AN APPLICABILITY
12 PROVISION."

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 **Section 1.** Section 2-15-2021, MCA, is amended to read:

16 "2-15-2021. Gaming advisory council -- allocation --
17 composition -- compensation -- biennial report. (1) There is
18 a gaming advisory council.

19 (2) The gaming advisory council is allocated to the
20 department for administrative purposes only as prescribed in
21 2-15-121.

22 (3) The gaming advisory council consists of nine
23 members. One member must be from the senate, and one member
24 must be from the house of representatives. The senate
25 committee on committees and the speaker of the house of

representatives shall appoint the legislative members of the council. The seven remaining members must be appointed by the department, with one representing the public at large, two representing local governments, one being a Native American, and three representing the gaming industry.

(4) Each gaming advisory council member is appointed to a 3-year term of office, ~~except that three of the first appointed original members shall serve a 1-year term, three (including both legislative members) shall serve a 2-year term, and three shall serve a 3-year term.~~ A member of the council may be removed for good cause by the appointing body provided for in subsection (3).

(5) The gaming advisory council shall appoint a chairman presiding officer from its members.

(6) ~~Legislative members~~ Members of the gaming advisory council are entitled to ~~compensation and expenses, as provided in 5-2-302, while the council is meeting. The remaining members are entitled to~~ travel, meals, and lodging expenses as provided for in 2-18-501 through 2-18-503. A member who is not a full-time salaried officer or employee of the state or of a political subdivision of the state is also entitled to be paid \$25 for each day during which the member is actually and necessarily engaged in the performance of council duties. Expenses of the council must be paid from licensing fees received by the department.

(7) The gaming advisory council shall, within its authorized budget, hold meetings and incur expenses as it considers necessary to study all aspects of gambling in the state.

(8) (a) The gaming advisory council shall submit a biennial report to the department, at a time designated by the department, with recommendations for amendments to the gambling statutes, the need for additional or modified department rules, the clarification of existing rules, and other recommendations on the operation of the department or any other gambling-related matter.

(b) The biennial report required under subsection (8)(a) must be affixed to the report on gambling in the state that the department submits that year. The department and council shall, as provided in 5-11-210, submit the two most recent department and council reports to the legislature.

(c) The council may submit interim reports to the department as the council considers necessary.

(d) The council shall meet with the department upon request of the department.

(e) The department shall meet with the council upon request of the council.

(9) The department shall give each council member notice and a copy of each proposed change in administrative

rules relating to gambling. The notice and copy must be given at the time a notice of proposed rules changes is filed with the secretary of state. The council shall review the proposal, may comment on it, and may attend any hearing on the proposal. The department shall consider any comment by any council member or by the council as a whole prior to adopting the proposed change."

Section 2. Section 23-5-112, MCA, is amended to read:

"23-5-112. Definitions. Unless the context requires otherwise, the following definitions apply to parts 1 through 6 of this chapter:

(1) "Applicant" means a person who has applied for a license or permit issued by the department pursuant to parts 1 through 6 of this chapter.

(2) "Application" means a written request for a license or permit issued by the department. The department shall adopt rules describing the forms and information required for issuance of a license.

(3) "Authorized equipment" means, with respect to live keno or bingo, equipment that may be inspected by the department and that randomly selects the numbers.

(4) "Bingo" means a gambling activity played for prizes with a card bearing a printed design of 5 columns of 5 squares each, 25 squares in all. The letters B-I-N-G-O must appear above the design, with each letter above one of the

columns. ~~No--more~~ More than 75 numbers may not be used. One number must appear in each square, except for the center square, which may be considered a free play. Numbers are randomly drawn using authorized equipment until the game is won by the person or persons who first cover a one or more previously designated ~~arrangement~~ arrangements of numbers on the bingo card.

(5) "Bingo caller" means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live bingo.

(6) "Card game table" or "table" means a live card game table:

(a) authorized by permit and made available to the public on the premises of a licensed gambling operator; or

(b) operated by a senior citizen center.

(7) "Card game tournament" means a gambling activity for which a permit has been issued involving participants who pay valuable consideration for the opportunity to compete against each other in a series of live card games conducted over a designated period of time.

(8) "Dealer" means a person with a dealer's license issued under part 3 of this chapter.

(9) "Department" means the department of justice.

(10) "Distributor" means a person who:

(a) purchases or obtains from ~~another-person~~ a licensed

1 manufacturer equipment of any kind for use in gambling
2 activities; and

3 (b) ~~sells, leases, or otherwise furnishes~~ the equipment
4 ~~to another person for use in public~~ a licensed distributor,
5 route operator, or operator.

6 (11) "Gambling" or "gambling activity" means risking
7 money, credit, deposit, check, property, or any other thing
8 of value for a gain that is contingent in whole or in part
9 upon lot, chance, or the operation of a gambling device or
10 gambling enterprise. The term does not mean conducting or
11 participating in a promotional game of chance and does not
12 include amusement games regulated by Title 23, chapter 6,
13 part 1.

14 (12) "Gambling device" means a mechanical,
15 electromechanical, or electronic device, machine, slot
16 machine, instrument, apparatus, contrivance, scheme, or
17 system used or intended for use in any gambling activity.

18 (13) "Gambling enterprise" means an activity, scheme, or
19 agreement or an attempted activity, scheme, or agreement to
20 provide gambling or a gambling device to the public.

21 (14) "Gross proceeds" means gross revenue received less
22 prizes paid out.

23 (15) "Illegal gambling device" means a gambling device
24 not specifically authorized by statute or by the rules of
25 the department. The term includes:

1 (a) a ticket or card, by whatever name known,
2 containing concealed numbers or symbols that may match
3 numbers or symbols designated in advance as prize winners,
4 including a pull tab, punchboard, push card, tip board,
5 pickle ticket, break-open, or jar game, except for one used
6 under chapter 7 or under part 5 of this chapter or in a
7 promotional game of chance approved by the department; and

8 (b) an apparatus, implement, or device, by whatever
9 name known, specifically designed to be used in conducting
10 an illegal gambling enterprise, including a faro box, faro
11 layout, roulette wheel, roulette table, or craps table or a
12 slot machine except as provided in 23-5-153.

13 (16) "Illegal gambling enterprise" means a gambling
14 enterprise that violates or is not specifically authorized
15 by a statute or a rule of the department. The term includes:

16 (a) a card game, by whatever name known, involving any
17 bank or fund from which a participant may win money or other
18 consideration and that receives money or other consideration
19 lost by the participant and includes the card games of
20 blackjack, twenty-one, jacks or better, baccarat, or chemin
21 de fer;

22 (b) a dice game, by whatever name known, in which a
23 participant wagers on the outcome of the roll of one or more
24 dice, includes craps, hazard, or chuck-a-luck, but does not
25 include an activity in which a participant rolls one or more

1 dice for a chance to obtain a drink or music; and

2 (c) sports betting, by whatever name known, in which a
3 person places a wager on the outcome of an athletic event,
4 including bookmaking, parlay bets, or sultan sports cards,
5 but not including those activities authorized in chapter 4
6 of this title and parts 2 and 5 of this chapter.

7 (17) "Keno" means a game of chance in which prizes are
8 awarded using a card with 8 horizontal rows and 10 columns
9 on which a player may pick up to 10 numbers. A keno caller,
10 using authorized equipment, shall select at random at least
11 20 numbers out of numbers between 1 and 80, inclusive.

12 (18) "Keno caller" means a person 18 years of age or
13 older who, using authorized equipment, announces the order
14 of the numbers drawn in live keno.

15 (19) "License" means an operator's, dealer's,
16 distributor's, manufacturer's, or manufacturer-distributor's
17 route operator's license issued to a person by the
18 department.

19 (20) "Licensee" means a person who has received a
20 license from the department.

21 (21) "Live card game" or "card game" means a card game
22 that is played in public between persons on the premises of
23 a licensed gambling operator or in a senior citizen center.

24 (22) "Lottery" or "gift enterprise" means a scheme, by
25 whatever name known, for the disposal or distribution of

1 property by chance among persons who have paid or promised
2 to pay valuable consideration for the chance of obtaining
3 the property or a portion of it or for a share or interest
4 in the property upon an agreement, understanding, or
5 expectation that it is to be distributed or disposed of by
6 lot or chance. However, "gift enterprise" does not mean:

7 (a) lotteries authorized under chapter 7; or

8 (b) cash or merchandise attendance prizes or premiums
9 that the county fair commissioners of agricultural fairs and
10 rodeo associations may give away at public drawings at fairs
11 and rodeos.

12 (23) "Manufacturer" means a person who assembles from
13 raw materials or subparts a completed piece of equipment or
14 pieces of equipment of any kind to be used as a gambling
15 device and who sells the equipment directly to a licensed
16 distributor, route operator, or operator.

17 (24) "Nonprofit organization" means a nonprofit
18 corporation or nonprofit charitable, religious, scholastic,
19 educational, veterans', fraternal, beneficial, civic, senior
20 citizens', or service organization established for purposes
21 other than to conduct a gambling activity.

22 (25) "Operator" means a person who purchases, receives,
23 or acquires, by lease or otherwise, and operates or controls
24 for use in public, a gambling device or gambling enterprise
25 authorized under parts 1 through 6 of this chapter.

(26) "Permit" means approval from the department to make available for public play a gambling device or gambling enterprise approved by the department pursuant to parts 1 through 6 of this chapter.

(27) "Person" or "persons" means both natural and artificial persons and all partnerships, corporations, associations, clubs, fraternal orders, and societies, including religious and charitable organizations.

(28) "Premises" means the physical building or property within or upon which a licensed gambling activity occurs, as stated on an operator's license application and approved by the department.

(29) "Promotional game of chance" means a scheme, by whatever name known, for the disposal or distribution of property by-chance among persons who have not paid or are not expected to pay any valuable consideration or who have not purchased or are not expected to purchase any goods or services for a chance to obtain the property, a portion of it, or a share in it. The property is disposed of or distributed by simulating a gambling enterprise authorized by parts 1 through 8 of this chapter or by operating a device approved by the department that was manufactured or intended for use for purposes other than gambling.

(30) "Public gambling" means gambling conducted in:

(a) a place, building, or conveyance to which the

public has access or may be permitted to have access;

(b) a place of public resort, including but not limited to a facility owned, managed, or operated by a partnership, corporation, association, club, fraternal order, or society, including a religious or charitable organization; or

(c) a place, building, or conveyance to which the public does not have access if players are publicly solicited or the gambling activity is conducted in a predominantly commercial manner.

(31) "Raffle" means a form of lottery in which each participant pays valuable consideration for a ticket to become eligible to win a prize. Winners must be determined by a random selection process approved by department rule.

(32) "Route operator" means a person who:

(a) purchases from a licensed manufacturer or distributor equipment of any kind for use in a gambling activity;

(b) leases the equipment to a licensed operator for use by the public; and

(c) may sell to a licensed operator equipment that had previously been authorized to be operated on a premises.

~~(32)~~(33) "Senior citizen center" means a facility operated by a nonprofit or governmental organization that provides services to senior citizens in the form of daytime or evening educational or recreational activities and does

not provide living accommodations to senior citizens. Services qualifying under this definition must be recognized in the state plan on aging adopted by the department of family services.

~~(33)~~(34) "Slot machine" means a mechanical, electrical, electronic, or other gambling device, contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any valuable consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the gambling device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner. This definition does not apply to video gambling machines authorized under part 6 of this chapter.

~~(34)~~(35) "Video gambling machine" is a gambling device specifically authorized by part 6 of this chapter and the rules of the department."

Section 3. Section 23-5-123, MCA, is amended to read:

"23-5-123. Disposal of money confiscated by reason of violation of gambling laws. All fines, penalties, forfeitures, and confiscated money collected by criminal, civil, or administrative process for a violation of a

provision of parts 1 through 6 of this chapter or a rule of the department must be deposited--one-half--in--the--state general--fund--and--one-half--in--the--general--fund--of--the--county in-which-the-violation-occurred distributed as follows:

(1) Funds collected through a criminal proceeding must be distributed according to 3-10-601 or 46-18-235.

(2) One-third of the funds collected through a civil or administrative proceeding must be deposited in the state special revenue account maintained for funds used by the department in administering parts 1 through 8 of this chapter and related rules. The remainder must be distributed to the county treasurer or the clerk, financial officer, or treasurer of the city or town in which the violation occurred for deposit in the county or municipal treasury. A county is not entitled to a penalty payment if the violation occurred in an incorporated city or town within the county."

Section 4. Section 23-5-136, MCA, is amended to read:

"23-5-136. Injunction and other remedies. (1) If a person has engaged or is engaging in an act or practice constituting a violation of a provision of parts 1 through 6 of this chapter or a rule or order of the department, the department may:

(a) upon clear and convincing evidence, issue a temporary order to cease and desist from the gambling activity, act, or practice for a period not to exceed 60

1 days;

2 (b) following notice and an opportunity for hearing,
3 and with the right of judicial review, under the Montana
4 Administrative Procedure Act:

5 (i) issue a permanent order to cease and desist from
6 the act or practice, which order remains in effect pending
7 judicial review;

8 (ii) place a licensee on probation;

9 (iii) suspend for a period not to exceed 180 days a
10 license or permit for the gambling activity, device, or
11 enterprise involved in the act or practice constituting the
12 violation;

13 (iv) revoke a license or permit for the gambling
14 activity, device, or enterprise involved in the act or
15 practice constituting the violation;

16 (v) impose a civil penalty not to exceed \$10,000 for
17 each violation, whether or not the person is licensed by the
18 department; and

19 (vi) impose any combination of the penalties contained
20 in this subsection (1)(b); and

21 (c) bring an action in district court for relief
22 against the act or practice. The department may not be
23 required to post a bond. On proper showing, the court may:

24 (i) issue a restraining order, a temporary or permanent
25 injunction, or other appropriate writ;

1 (ii) suspend or revoke a license or permit; and

2 (iii) appoint a receiver or conservator for the
3 defendant or the assets of the defendant.

4 (2) The department may issue a warrant for distraint
5 against an operator who fails to pay a civil penalty imposed
6 under subsection (1) or a tax imposed under 23-5-409 or
7 23-5-610. The department may issue the warrant for the
8 amount of the unpaid penalty or for the amount of the unpaid
9 tax, plus penalty and accumulated interest on the tax, and
10 shall follow the procedures provided in 15-1-701 through
11 15-1-708.

12 (3) (a) A civil penalty imposed under this section must
13 be collected by the department and distributed as provided
14 in 23-5-123. The local government portion of the penalty
15 payment is statutorily appropriated to the department, as
16 provided in 17-7-502, for deposit to the county or municipal
17 treasury.

18 (b) If a person fails to pay the civil penalty, the
19 amount due is a lien on the person's licensed premises and
20 gambling devices in the state and may be recovered by the
21 department in a civil action."

22 **NEW SECTION. Section 5. Evidence in administrative**
23 **proceedings.** When conducting an administrative proceeding
24 under parts 1 through 8 of this chapter, the department may
25 admit into the record and give probative effect to evidence

1 that possesses probative value commonly accepted by
2 reasonably prudent persons.

3 **Section 6.** Section 23-5-152, MCA, is amended to read:

4 "23-5-152. Possession of illegal gambling device or
5 conducting illegal gambling enterprise prohibited --
6 exceptions. (1) Except as provided in 23-5-153 and
7 subsections (2) through (4) of this section, it is a
8 misdemeanor punishable under 23-5-161 for a person to
9 purposely or knowingly:

10 (a) have in his the person's possession or under his
11 the person's control or permit to be placed, maintained, or
12 kept in any room, space, enclosure, or building owned,
13 leased, or occupied by him or under his the person's
14 management or control an illegal gambling device; or

15 (b) operate an illegal gambling enterprise.

16 (2) Subsection (1) does not apply to a public officer
17 or to a person coming into possession of an illegal gambling
18 device in or by reason of the performance of an official
19 duty and holding it to be disposed of according to law.

20 (3) (a) The department may adopt rules to license
21 persons to manufacture gambling devices that are not legal
22 for public play in the state and are manufactured only for
23 export from the state.

24 (b) A person may not manufacture or ~~possess~~ an illegal
25 gambling device for export from the state without having

1 obtained a license from the department. The department may
2 charge an administrative fee for the license that is
3 commensurate with the cost of issuing the license.

4 (c) A person licensed under subsection (3) may bring an
5 illegal gambling device into the state after-notifying if:

6 (i) the illegal gambling device contains a component
7 that will be used by the licensee to manufacture an illegal
8 gambling device for export from the state; or

9 (ii) the illegal gambling device will be reconditioned,
10 refurbished, repaired, or otherwise substantially modified
11 in preparation for export from the state; and

12 (iii) the licensee has notified the department and
13 receiving received authorization from the department to
14 bring the illegal gambling device into the state. The person
15 licensee is subject to reporting requirements provided for
16 in rules adopted under subsection (3)(a).

17 (4) An illegal gambling device may be possessed or
18 located for display purposes only and not for operation:

19 (a) in a public or private museum; or

20 (b) in any other public place if the device has been
21 made permanently inoperable for purposes of conducting a
22 gambling activity."

23 **Section 7.** Section 23-5-157, MCA, is amended to read:

24 "23-5-157. Gambling on cash basis. (1) In every
25 gambling activity, except raffles as authorized in 23-5-413,

the consideration paid for the chance to play must be cash. A participant shall present the money needed to play the game as the game is being played. A check, credit card, note, I O U, or other evidence of indebtedness may not be offered or accepted as part of the price of participation in the gambling activity or as payment of a debt incurred in the gambling activity. The use of a check or credit card to pay for other goods or services in the establishment or to obtain cash is not a violation of this section.

(2) A person who violates this section is guilty of:

(a) a misdemeanor if the total amount of credit extended or received on a single occasion or as part of a common scheme, as defined in 45-2-101, is \$300 or less and must be punished in accordance with 23-5-161; or

(b) a felony if the total amount of credit extended or received on a single occasion or as part of a common scheme, as defined in 45-2-101, exceeds \$300 and must be punished in accordance with 23-5-162."

Section 8. Section 23-5-158, MCA, is amended to read:

"23-5-158. Minors not to participate -- penalty -- exception. (1) Except as provided in subsection {2} (3), a person may not purposely or knowingly allow a person under 18 years of age to participate in a gambling activity. A person who violates this subsection is guilty of a misdemeanor and must be punished in accordance with

23-5-161.

(2) Except as provided in subsection (3), a person under 18 years of age may not purposely or knowingly participate in a gambling activity. A person who violates this subsection is subject to a civil penalty not to exceed \$50 if the proceedings for violating this subsection are held in justice's, municipal, or city court. If the proceedings are held in youth court, the offender must be treated as an alleged youth in need of supervision, as defined in 41-5-103. The youth court may enter its judgment under 41-5-523.

{2}{3} A person under 18 years of age may sell or buy tickets for or receive prizes from a raffle conducted in compliance with 23-5-413 if proceeds from the raffle, minus administrative expenses and prizes paid, are used to support charitable activities, scholarships or educational grants, or community service projects."

Section 9. Section 23-5-160, MCA, is amended to read:

"23-5-160. Shaking dice for a drink or music or in a shake-a-day game. (1) It is legal for a customer in an establishment licensed for the sale of alcoholic beverages to be consumed on the premises to:

(a) shake or choose one or more dice, alone or with an owner or employee of the establishment, to determine whether the customer or the establishment shall pay for the

customer's drink or to determine whether the customer or the establishment shall immediately pay a predetermined amount of money, not to exceed \$2, for music from a jukebox in the establishment; or

(b) play the dice game commonly known as shake-a-day, in which a customer may once each day pay an amount of money predetermined by the establishment, but not more than 50 cents, and shake a number of dice predetermined by the establishment in an attempt to roll a certain combination combinations simulating a poker hand hands predetermined by the establishment ~~and,--if.~~ If one of the combination combinations is rolled, the customer may win merchandise or a portion or all of the money paid to play the game since the last winning combination was rolled. The establishment may, before a game begins, limit the amount that will be won and use the remaining money played on that game to start the pot for the next game, thus enhancing the incentive to play the next game in the early stages of the next game. All money paid to play games must be paid out as winnings. An establishment may offer to the public more than one shake-a-day game at any given time.

(2) Nothing in this section authorizes the dice game of craps or any other dice game not specifically described in this section."

Section 10. Section 23-5-306, MCA, is amended to read:

"23-5-306. (Temporary) Live card game table -- permit -- fees -- disposition of fees. (1) A person who has been granted an operator's license under 23-5-177 and a license to sell alcoholic beverages for consumption on the premises may be granted an annual permit for the placement of live card game tables. If one or more live card game tables were legally operated on a premises on January 15, 1989, and the premises were not on that date licensed under 16-4-401(2) but were licensed on that date to sell food, cigarettes, or any other consumable product, an operator's license and an annual permit for the placement of live card game tables may be granted to the person who legally operated the premises on January 15, 1989.

(2) The annual permit fee in lieu of taxes for each live card game table operated in a licensed operator's premises may not be prorated and must be:

(a) \$250 for the first table; and

(b) \$500 for each additional table.

(3) The department shall retain for administrative purposes \$100 of the fee collected under this part for each live card game table.

(4) Except as provided in subsection (5), the department shall forward on a quarterly basis the remaining balance of the fee collected under subsection (2) to the treasurer of the county or the clerk, finance officer, or

treasurer of the city or town in which the live card game table is located for deposit to the county or municipal treasury. A county is not entitled to proceeds from fees assessed on live card game tables located in incorporated cities and towns within the county. The local government portion of this fee is statutorily appropriated to the department, as provided in 17-7-502, for deposit to the county or municipal treasury.

(5) On June 30, 1993, the department shall transfer to the general fund the remaining fund balance from the account funded by this section. (Terminates July 1, 1993--sec. 2, Ch. 18, Sp. L. January 1992.)

23-5-306. (Effective July 1, 1993) Live card game table -- permit -- fees -- disposition of fees. (1) (a) A person who has been granted an operator's license under 23-5-177 and a license to sell alcoholic beverages for consumption on the premises may be granted an annual permit for the placement of live card game tables.

(b) The department may issue an annual permit for the placement of live card game tables to a person operating a premises not licensed to sell alcoholic beverages for consumption on the premises if:

(i) if one or more live card game tables were legally operated on a the premises on January 15, 1989, and the premises were not on that date licensed under 16-4-401(2)

but;

(ii) the premises were licensed on that date January 15, 1989, to sell food, cigarettes, or any other consumable product, an operator's license and an annual permit for the placement of live card game tables may be granted to the person who legally operated the premises on January 15, 1989;

(iii) the person has been granted an operator's license under 23-5-177; and

(iv) at the time of application for the permit:

(A) the person has continuously operated a live card game table on the premises since January 15, 1989; and

(B) the natural person or persons who own the business operated on the premises are the same as on January 15, 1989.

(2) The annual permit fee in lieu of taxes for each live card game table operated in a licensed operator's premises may not be prorated and must be:

(a) \$250 for the first table; and

(b) \$500 for each additional table.

(3) The department shall retain for administrative purposes \$100 of the fee collected under this part for each live card game table.

(4) The department shall forward on a quarterly basis the remaining balance of the fee collected under subsection

(2) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the live card game table is located for deposit to the county or municipal treasury. A county is not entitled to proceeds from fees assessed on live card game tables located in incorporated cities and towns within the county. The local government portion of this fee is statutorily appropriated to the department, as provided in 17-7-502, for deposit to the county or municipal treasury."

Section 11. Section 23-5-312, MCA, is amended to read:

"23-5-312. Prizes not to exceed three hundred dollars.

(1) A prize for an individual live card game may not exceed the value of \$300. Games may not be combined in any manner so as to increase the value of the ultimate prize awarded. Except during a tournament conducted under 23-5-317, all prizes must be awarded immediately upon completion of each hand.

(2) If a licensed operator conducts a promotional game of chance involving a live card game, the prize limit provided for in subsection (1) applies to prizes awarded as a result of the promotional game of chance."

Section 12. Section 23-5-317, MCA, is amended to read:

"23-5-317. Tournaments. (1) Subject to the department's approval, a licensed operator who has a permit for placing at least 1 live card game table on his the operator's

premises may conduct up to 12 live card game tournaments a year on his premises. Each tournament may be conducted for no more than 5 consecutive days. If an operator conducts more than one tournament a year, at least 7 days must lapse between the conclusion of one tournament and the beginning of the next tournament.

(2) (a) Before the start of a tournament, the operator shall submit to the department an application for a tournament permit. The permit application must be accompanied by a \$10 fee. The department shall retain the fee for administrative purposes.

(b) If a tournament is to be conducted on the premises of more than one licensed operator, each operator shall submit a permit application and processing fee. The permit is applied toward each operator's annual 12-tournament limit.

(3) Permits for placement of additional live card game tables, as provided in 23-5-306, are not required for additional tables authorized under a tournament permit.

(4) Tournament participants must be provided with a copy of the tournament rules before the start of the tournament. A copy of the rules must be posted in a conspicuous location in each area where the tournament is conducted.

(5) A person must be present on the premises during the

1 tournament to oversee the conduct of the card games and to
2 settle disputes among players. This person may be a dealer
3 licensed under 23-5-308.

4 (6) Only a dealer licensed under 23-5-308 may deal
5 cards at a poker or panguingue tournament.

6 ~~(6)~~(7) A licensed operator may charge a tournament
7 participant an entry fee, which may include a fee to cover
8 expenses incurred in conducting the tournament. A
9 participant who has been eliminated from competition during
10 the tournament may reenter the tournament by paying an
11 additional fee if permitted to do so under tournament rules.
12 A rake-off may not be taken during a tournament card game.

13 ~~(7)~~(8) The face value of the chips used does not govern
14 the value of the pot awarded at the end of the tournament.

15 ~~(8)~~(9) The provisions of this part and the department
16 rules governing live card games apply to live card games
17 conducted as part of a tournament unless otherwise
18 provided."

19 **Section 13.** Section 23-5-324, MCA, is amended to read:

20 "23-5-324. Card room contractor's license -- fee --
21 submission of contract. (1) It is a misdemeanor for a person
22 to enter into a contract with a licensed operator to operate
23 one or more live card game tables on the operator's premises
24 without obtaining a card room contractor's license from the
25 department.

1 (2) The department shall charge an annual license fee
2 of \$150 for issuing or renewing a card room contractor's
3 license. The department shall retain the fee for
4 administrative purposes.

5 (3) The applicant shall submit at the time of
6 application for a card room contractor's license a copy of
7 the agreement entered into with the licensed operator.

8 (4) Operation of a live card room table by a licensed
9 card room contractor does not relieve an operator of civil
10 or criminal liability for a violation of parts 1 through 8
11 of this chapter or of department rules that occurs on the
12 operator's premises."

13 **Section 14.** Section 23-5-412, MCA, is amended to read:

14 "23-5-412. Card prices and prizes -- exception. (1)
15 Except as provided in subsection (3):

16 (a) the price for an individual bingo or keno card game
17 may not exceed 50 cents;

18 (b) a prize may not exceed the value of \$100 for each
19 individual bingo award or keno card game; and

20 (c) it is unlawful to, in any manner, combine any
21 awards bingo or keno games so as to increase the ultimate
22 value of the award prize.

23 (2) Bingo and keno prizes may be paid in either
24 tangible personal property or cash.

25 (3) A variation of the game of keno, as approved by the

1 department, in which a player selects three or more numbers
2 and places a wager on various combinations of these numbers
3 is permissible if:

4 (a) no more than 50 cents is wagered on each
5 combination of numbers; and

6 (b) a winning combination does not pay more than \$100.

7 (4) A player may give a keno caller a card with
8 instructions on the card to play that card and its marked
9 numbers for up to the number of successive games that the
10 house allows and that the player has indicated on the card,
11 upon payment of the price per game times the number of
12 successive games indicated. The player shall remain on the
13 house premises until the card is played or withdrawn. The
14 caller shall keep the card until the end of the number of
15 games indicated, and the department may by rule provide that
16 at that time the caller shall pay the player any prizes won.

17 (5) If a licensed operator conducts a promotional game
18 of chance involving bingo or keno, the prize limit provided
19 for in subsection (1) applies to prizes awarded as a result
20 of the promotional game of chance."

21 **NEW SECTION. Section 15. Distributor's license --**
22 **fees.** (1) It is a misdemeanor for a person to conduct
23 business as a distributor without first obtaining a
24 distributor's license from the department.

25 (2) The department shall charge an annual license fee

1 of \$1,000 for issuing or renewing a distributor's license.
2 The department shall retain the fee for administrative
3 purposes.

4 (3) A distributor's license expires June 30 of each
5 year, and the license fee may not be prorated.

6 (4) Except as provided in subsection (6), the
7 department may charge an additional, one-time license
8 application processing fee to cover the actual cost of
9 processing the original license. The department shall refund
10 any amount of the application processing fee not needed to
11 reimburse the department for actual costs or shall collect
12 an amount sufficient to reimburse the department for actual
13 costs not completely covered by the initial fee charged.

14 (5) The department shall retain for administrative
15 purposes the license and application processing fees
16 collected under this section.

17 (6) The department may waive the application processing
18 fee provided for in subsection (4) if the applicant is
19 licensed as a manufacturer, route operator, or operator.

20 **NEW SECTION. Section 16. Route operator's license --**
21 **fees.** (1) It is a misdemeanor for a person to conduct
22 business as a route operator without first obtaining a route
23 operator's license from the department.

24 (2) The department shall charge an annual license fee
25 of \$1,000 for issuing or renewing a route operator's

1 license. The department shall retain the fee for
2 administrative purposes.

3 (3) A route operator's license expires June 30 of each
4 year, and the license fee may not be prorated.

5 (4) Except as provided in subsection (6), the
6 department may charge an additional, one-time license
7 application processing fee to cover the actual cost of
8 processing the original license. The department shall refund
9 any amount of the application processing fee not needed to
10 reimburse the department for actual costs or shall collect
11 an amount sufficient to reimburse the department for actual
12 costs not completely covered by the initial fee charged.

13 (5) The department shall retain for administrative
14 purposes the license and application processing fees
15 collected under this section.

16 (6) The department may waive the application processing
17 fee provided for in subsection (4) if the applicant is
18 licensed as a manufacturer, distributor, or operator.

19 **NEW SECTION. Section 17.** Allowable compensation for
20 route operator. The compensation that a licensed route
21 operator may receive for leasing a video gambling machine to
22 a licensed operator is limited to a set fee or a percentage
23 of gross machine income, or both a set fee and percentage
24 amount. The route operator may not assume responsibility for
25 any expenses of the operator's business except for expenses

1 associated with:

2 (1) paying video gambling machine permit fees and
3 taxes;

4 (2) conducting video gambling machine promotional
5 activities;

6 (3) maintaining and repairing video gambling machines;

7 (4) supplying funds to allow an operator to exchange a
8 player's money for other coin or currency for operating a
9 video gambling machine;

10 (5) providing accounting and recordkeeping services for
11 video gambling machines; and

12 (6) other activities, if allowed by department rule.

13 **Section 18.** Section 23-5-602, MCA, is amended to read:

14 **"23-5-602. Definitions.** As used in this part, the
15 following definitions apply:

16 (1) "Associated equipment" means all proprietary
17 devices, machines, or parts used in the manufacture or
18 maintenance of a video gambling machine, including but not
19 limited to integrated circuit chips, printed wired assembly,
20 printed wired boards, printing mechanisms, video display
21 monitors, metering devices, and cabinetry.

22 (2) "Bingo machine" means an electronic video gambling
23 machine that, upon insertion of cash, is available to play
24 bingo as defined by rules of the department. The machine
25 utilizes a video display and microprocessors in which, by

1 the skill of the player, by chance, or both, the player may
2 receive free games or credits that may be redeemed for cash.
3 The term does not include a slot machine or a machine that
4 directly dispenses coins, cash, tokens, or anything else of
5 value.

6 (3) "Draw poker machine" means an electronic video
7 gambling machine that, upon insertion of cash, is available
8 to play or simulate the play of the game of draw poker as
9 defined by rules of the department. The machine utilizes a
10 video display and microprocessors in which, by the skill of
11 the player, by chance, or both, the player may receive free
12 games or credits that may be redeemed for cash. The term
13 does not include a slot machine or a machine that directly
14 dispenses coins, cash, tokens, or anything else of value.

15 (4) "Gross income" means money put into a video
16 gambling machine minus credits paid out in cash.

17 (5) "Keno machine" means an electronic video gambling
18 machine that, upon insertion of cash, is available to play
19 keno as defined by rules of the department. The machine
20 utilizes a video display and microprocessors in which, by
21 the skill of the player, by chance, or both, the player may
22 receive free games or credits that may be redeemed for cash.
23 The term does not include a slot machine or a machine that
24 directly dispenses coins, cash, tokens, or anything else of
25 value.

1 {6}--"Video-gambling--machine--manufacturer-distributor"
2 means--a--person-who-assembles,-produces,-makes,-or-supplies
3 video-gambling-machines-or-associated--equipment--for--sale,
4 use,-or-distribution-in-the-state."

5 **Section 19.** Section 23-5-611, MCA, is amended to read:

6 "23-5-611. Machine permit qualifications --
7 limitations. (1) (a) A person who has been granted an
8 operator's license under 23-5-177 and a license to sell
9 alcoholic beverages for consumption on the premises may be
10 granted a permit for the placement of video gambling
11 machines in his the premises.

12 (b) If video keno or bingo gambling machines were
13 legally operated on a premises on January 15, 1989, and the
14 premises were not on that date licensed to sell alcoholic
15 beverages for consumption on the premises or operated for
16 the principal purpose of gaming and there is an operator's
17 license for the premises under 23-5-177, a permit for the
18 same number of video keno or bingo gambling machines as were
19 operated on the premises on that date may be granted to the
20 person who held the permit for such the machines on those
21 premises on that date, subject to the provisions of
22 subsection (1)(d).

23 (c) A person who legally operated an establishment on
24 January 15, 1989, for the principal purpose of gaming and
25 has been granted an operator's license under 23-5-177 may be

1 granted a permit for the placement of bingo and keno
2 machines ~~in his~~ on the premises, subject to the provisions
3 of subsection (1)(d).

4 (d) The department may issue an annual permit under
5 subsection (1)(b) or (1)(c) if at the time of application
6 for the permit:

7 (i) the person has continuously operated the video
8 gambling machine on the premises since January 15, 1989; and

9 (ii) the natural person or persons who own the business
10 operated on the premises are the same as on January 15,
11 1989.

12 (2) An applicant for a permit shall disclose on the
13 application form to the department any information required
14 by the department consistent with the provisions of
15 23-5-176.

16 (3) A licensee may not have on the premises or make
17 available for play on the premises more than 20 machines of
18 any combination."

19 **Section 20.** Section 23-5-625, MCA, is amended to read:

20 "23-5-625. Video gambling machine
21 manufacturer-distributor manufacturer -- license -- fees --
22 restrictions. (1) (a) Except as provided in subsections (2)
23 and (3), it is unlawful for any person to assemble,
24 produce, or manufacture, or supply any video gambling
25 machine or associated equipment for use or play in the state

1 without having first been issued a video gambling machine
2 manufacturer-distributor's manufacturer's license by the
3 department. A licensed manufacturer-distributor manufacturer
4 may supply a video gambling machine only to another licensed
5 manufacturer-distributor manufacturer or to a licensed
6 distributor, route operator, or operator.

7 (b)(2) The department shall charge an annual license
8 fee of \$1,000 for the issuance or renewal of a video
9 gambling machine manufacturer-distributor's manufacturer's
10 license.

11 (c)(3) In addition to other license fees Except as
12 provided in subsection (6), the department may charge the
13 applicant a an additional, one-time video gambling machine
14 manufacturer-distributor's manufacturer's license
15 application processing fee. The application processing fee
16 may not exceed the department's actual costs for processing
17 an application.

18 (d)(4) All video gambling machine
19 manufacturer-distributor's manufacturer's licenses expire on
20 June 30 of each year, and the license fee may not be
21 prorated.

22 (e)(5) The department shall retain the license and
23 processing fees collected for purposes of administering this
24 part, unless otherwise provided.

25 (f) A licensed operator who is not licensed as a

1 manufacturer-distributor--may--sell--up-to-20-video-gambling
2 machines-in-a-calendar-year-if-the-operator;

3 (a)--had-obtained-permits-for-the-machines--and--legally
4 operated-them-prior-to-the-sale;-and

5 (b)--sells--the-machines-to-another-licensed-operator-or
6 a-licensed-manufacturer-distributor;

7 (3)--A-lienholder-who-acquires-title-to--video--gambling
8 machines--through--a-foreclosure-action-involving-a-licensed
9 operator-or-manufacturer-distributor-may-sell--the--machines
10 to-a-licensed-operator-or-licensed-manufacturer-distributor;

11 (6) The department may waive the application processing
12 fee provided for in subsection (3) if the applicant is
13 licensed as a distributor, route operator, or operator."

14 **NEW SECTION. Section 21.** Sale of video gambling
15 machines by operator or lienholder. (1) A licensed operator
16 who is not licensed as a manufacturer, distributor, or route
17 operator may sell up to 20 video gambling machines in a
18 calendar year if the operator:

19 (a) had obtained permits for the machines and legally
20 operated them prior to the sale; and

21 (b) sells the machines to another licensed operator or
22 to a licensed manufacturer, distributor, or route operator.

23 (2) A lienholder who acquires title to video gambling
24 machines through a foreclosure action involving a licensed
25 manufacturer, distributor, route operator, or operator may

1 sell the machines to a licensed manufacturer, distributor,
2 route operator, or operator.

3 **Section 22.** Section 23-5-631, MCA, is amended to read:

4 "23-5-631. Examination and approval of new video
5 gambling machines and associated equipment -- fee. (1) The
6 department shall examine and may approve a new video
7 gambling machine and or associated equipment or a
8 modification to an approved machine or associated equipment
9 which are that is manufactured, sold, or distributed for use
10 in the state before the video gambling machine or associated
11 equipment is sold, played, or used.

12 (2) A video gambling machine or associated equipment or
13 a modification to an approved machine or associated
14 equipment may not be examined or approved by the department
15 until the video gambling machine ~~manufacturer-distributor~~
16 manufacturer is licensed as required in 23-5-625.

17 (3) All video gambling machines or associated equipment
18 approved by the department of commerce prior to October 1,
19 1989, must be considered approved under this part.

20 (4) The department shall require the
21 ~~manufacturer-distributor~~ manufacturer seeking the
22 examination and approval of a new video gambling machine or
23 associated equipment or a modification to an approved
24 machine or associated equipment to pay the anticipated
25 actual costs of the examination in advance and, after the

completion of the examination, shall refund overpayments or charge and collect amounts sufficient to reimburse the department for underpayments of actual costs.

(5) Payments received under subsection (4) are statutorily appropriated to the department, as provided in 17-7-502, to defray the costs of examining and approving video gambling machines and associated equipment and modifications to approved machines and associated equipment and to issue refunds for overpayments.

(6) The department may inspect and test and approve, disapprove, or place a condition upon a video gambling machine or associated equipment or a modification to an approved machine or associated equipment prior to its distribution and placement for play by the public."

Section 23. Section 23-6-104, MCA, is amended to read:

"23-6-104. Amusement games allowed. (1) Crane games, as defined in 23-6-101, and the games described in subsection (2) may be made available for public play.

(2) (a) Fish pond (duck pond). The player catches a fish or other object floating in a pond of water by using a pole, hand, net, or string. All fish or objects are marked on the bottom, indicating the size of prize the player wins. The player is awarded a prize each time, and the player must be allowed to continue playing until a prize is won.

(b) Hoop or ring toss. The player tosses a hoop or ring

over a target that must consist of bottles, pegs, blocks, or prizes. The operator shall specifically advise the player as to the degree that the hoop or ring must go over the target. All hoops of the same color used at an individual stand must be the same size. All targets used at an individual booth must be the same size, or the operator shall advise the player by posting signs or using color codes denoting the different sizes.

(c) Dart games. The target area for all dart games must be of a material capable of being penetrated and of retaining a metal tip dart. The target area must be in the rear of the stand and must be at least 3 feet but not more than 15 feet from the foul line. A target must be stationary at all times.

(i) Balloon (poparoo) (balloon smash). The targets are inflated balloons. The player throws one or more darts to burst a predetermined number of balloons. If the predetermined number of balloons are burst by the darts, the player receives the prize indicated.

(ii) Dart throw. The targets are various sizes and shapes located on the target area. The player throws darts individually at the target. A dart must stick in a predetermined target to win the prize as designated.

(iii) Tic tac toe dart. The target is a tic tac toe board located in the target area. The player throws darts at

1 the target and wins a designated prize when the thrown darts
2 line up in a row in the target. The darts may line up
3 vertically, horizontally, or diagonally to win.

4 (iv) Add-um-up darts. The target consists of numbered
5 squares located in the target area. Prizes are awarded based
6 on the total score obtained by the player by throwing and
7 sticking the darts in the numbered squares. A dart that
8 sticks on a line must be thrown again. The player may add up
9 the score of the darts thrown.

10 (d) Ball tosses. In all ball toss games, the balls used
11 at a specific stand must be of the same weight and size.
12 Targets must be of the same weight and size, or the operator
13 shall color code the targets and advise the player of the
14 difference in targets by posting a sign or providing a
15 duplicate of the target showing the limitations or
16 restrictions. The sign or duplicate target must be readily
17 visible to the player.

18 (i) Milk bottle toss. The player tosses or throws balls
19 at simulated milk bottles. The player wins by either tipping
20 over or knocking bottles off the raised platform as
21 designated by the operator. The bottles may be constructed
22 of wood, metal, or plastic or a combination of the three.
23 Operators may vary the number of bottles and balls used in
24 each game. Floating or loose weights in bottles are not
25 allowed. The weight of individual bottles may not exceed 7

1 1/2 pounds.

2 (ii) Milk can (Mexican hat) (cone). The player tosses a
3 ball into the opening of a milk can, into a fiberglass
4 Mexican hat turned upside down, or through a cone to win.

5 (iii) Football toss (tire toss). The player tosses or
6 throws a football through a stationary tire or hoop to win.

7 (iv) Basketball toss/throw. The player tosses or throws
8 a basketball through a hoop to win.

9 (v) Bushel baskets. The player tosses balls into a
10 bushel basket mounted on a stationary backdrop at a fixed
11 angle. The balls must stay in the basket to win. Rim shots
12 are allowed, except the operator may designate the top 6
13 inches of the basket rim by color and disallow balls
14 striking this area as winning tosses.

15 (vi) Cat-ball-toss (star/diamond toss). The player
16 tosses balls into a simulated cat's mouth or a round,
17 diamond, or star-shaped hole to win.

18 (vii) Ping pong toss. The player tosses ping pong balls
19 into dishes, saucers, cups, or ashtrays floating in water. A
20 predetermined number of balls must remain in the dishes,
21 saucers, cups, or ashtrays for the player to win. The
22 dishes, saucers, cups, or ashtrays must have water covering
23 the bottom of the surface that is facing up.

24 (viii) Fishbowl game. The player tosses ping pong balls
25 into a water-filled fish bowl to win.

1 (ix) Volleyball toss (soccer ball). The player tosses a
2 volley or soccer ball into a keg-type container mounted on a
3 stationary backdrop at a fixed angle. The ball must stay in
4 the keg to win a prize. Rim shots are authorized as stated
5 in subsection (2)(d)(v) for bushel baskets.

6 (x) Goblet ball (whiffle ball). The player tosses a
7 whiffle ball into a target area of glass or plastic goblets.
8 Located in the target area are colored goblets that
9 determine the type of prize the player wins. At least 33% of
10 the goblets in the target area must be winners. The ball
11 must stay in the goblet to win a prize.

12 (xi) Break the plate/bottle. The player tosses or throws
13 a ball at a plate, phonograph record, or bottle. The type of
14 prize won is determined by the number of targets broken by
15 the player.

16 (xii) Punk rack. The targets for this game are rows of
17 dolls or cats on a ledge at the rear of the stand. The dolls
18 or cats must be filled with sawdust, styrofoam, cotton, or
19 other like material that provides a firm base for the ball
20 to strike. The hair protruding from the side of the dolls or
21 cats may not exceed 3 inches. The prize is determined by how
22 many dolls or cats the player knocks over or off the ledge,
23 as posted by the operator.

24 (xiii) Teeth game. The target consists of a large face
25 with wooden teeth. The prize is determined by how many teeth

1 the player knocks down by throwing a ball.

2 (xiv) Toilet game (doniker). To win, the player tosses
3 or throws a ball or other object through a toilet seat
4 located at the rear of the stand.

5 (xv) Coke roll. The player rolls a ball down an alley
6 with the object of knocking over two coke bottles standing
7 at the end of the alley. The player must tip over both
8 bottles to win. Bottles must be placed on predetermined
9 spots painted on the surface of the alley.

10 (xvi) Rolldown. The player rolls balls down an alley
11 with the object of putting the balls in numbered slots at
12 the end of the alley. The scores represented by the balls in
13 each numbered slot are added up at the conclusion of the
14 game. Scores above or below a predetermined score win. The
15 alley surface must be smooth and free from defects at all
16 times.

17 (xvii) Fascination (I got it). Fascination is a group
18 game that involves competition among the players. The target
19 area consists of 25 holes, and the player tosses or rolls a
20 ball into one of the holes. The object of the game is to get
21 five balls in a row either vertically, horizontally, or
22 diagonally. The first player to accomplish this is the
23 winner. Prize size is determined by the number of players
24 participating in each game.

25 ~~(xviii) Cakewalk. The players walk on a predetermined~~

1 route-with-designated-spots-and-when-the-operator-stops-the
2 walk-the-player-on-a-predetermined-spot-wins-a-prize.

3 {xix}{xviii} Batter-up. The player uses a whiffle ball
4 bat to swing and strike whiffle balls that are pitched at
5 medium speed from a pitching machine. The player wins when
6 he the player hits a ball into the home run shelf. The home
7 run shelf is located at the back of the batting cage
8 approximately 15 feet from the player.

9 {xx}{xix} Sky bowling. Two bowling pins are set on
10 predetermined painted spots on a shelf. A ball is attached
11 to a chain suspended from a stationary support at least 6
12 inches to the right or left of the bowling pins. The object
13 is to swing the ball, miss the pins with the ball as it goes
14 forward, and knock the pins over as the ball returns.

15 {xxi}{xx} Clown rolldown. A ball is tossed through the
16 open mouth of a moving clown or animal head. The ball then
17 rolls down a chute to numbered slots at the rear of the
18 clown or animal head. The scores represented by the balls in
19 each numbered slot are added up at the conclusion of the
20 game. Prizes are awarded on the points achieved.

21 {xxii}{xxi} Skee ball. The player rolls a ball up the
22 mechanical bowling alley into targets. A computer adds up
23 the scores, and the predetermined scores win.

24 {xxiii}{xxii} Speedball radar game. The player gets four
25 balls and throws three balls through radar to establish

1 speeds and to estimate at what speed the fourth ball will
2 pass through the radar. The player wins a prize if he the
3 player accurately estimates the speed of the fourth ball.
4 The radar must be mounted and stationary.

5 (e) Shooting games. These games are conducted by the
6 player using a weapon of some type to shoot at a target in
7 the rear of the stand. The safety requirements of local city
8 or county ordinances must be observed by the operator and
9 player. The target may be stationary or mobile.

10 (i) Short range (shooting gallery). In this game, the
11 player is given four rounds to shoot at a spot target 1/4
12 inch or less in diameter. The player wins when the spot
13 target is completely shot out, or the player is given five
14 rounds to shoot one round each at five triangular, round, or
15 1/2-inch square targets. The prize is determined by the
16 number of targets struck by the player, or the player is
17 given five rounds to shoot one round each at five
18 triangular, round, or 1/2-inch square targets. Within each
19 target is a bull's eye. The player must hit the bull's eye
20 without touching the outer surface of the target. The prize
21 is determined by the number of bull's eyes correctly hit.

22 (ii) Shoot-out-the-star (machine gun). The player, using
23 an automatic air pellet gun, is given 100 pellets to shoot
24 at a star-shaped target. The player must shoot out all of
25 the target to win. The star cannot be more than 1 1/4 inches

from point-to-point.

(iii) Water racer. This group game involves a competition, with the player winning a prize based on the number of players competing. The player, using a water pistol, shoots the water into a target. The water that strikes the target causes a balloon to inflate or advances an object to ring a bell. The first player who bursts the balloon or rings the bell is the winner.

(iv) Rapid fire. This group game involves competition similar to the water racer game described in subsection (2)(e)(iii). The player uses an electronic pistol to shoot at a target. Hits on the target give the player a score. The first player to reach a predetermined score is the winner.

(v) Cork gallery. The player uses a cork gun or similar device to propel objects, including but not limited to corks, suction cup darts, or styrofoam balls, to shoot at targets located on a shelf or at a bull's eye target. The player must hit the bull's eye or knock the target over or off the shelf to win a prize. The prize is determined by the target knocked over or off the shelf, by the number of targets knocked over or off the shelf, or by the player accomplishing other tasks, as stated in the posted rules. When suction cup darts or other darts are used and fail to stay on or in the target, the player must shoot the dart again. The base of each target must be uniform, front and

rear.

(vi) Boomball. The player uses a cannon with compressed air to propel balls into a target area. The targets have varied point value. If the ball remains in the target, a computer adds up the score. Prizes are awarded based on the points achieved.

(f) Coin pitchers.

(i) Spot pitch (lucky strike). The player pitches a coin at colored spots located on a table in the center of the stand. The coin must touch or stay inside of a spot to win a prize.

(ii) Plate pitch. The player pitches a coin onto a glass plate to win a prize as designated.

(iii) Glass pitch (bowl). The player pitches a coin into or onto dishes or glasses. If the coin remains in a top target glass item, then the player wins that item.

(g) Cakewalk. The players walk on a predetermined route with designated spots, and when the operator stops the walk, the player on a predetermined spot wins a prize.

~~fg~~(h) Miscellaneous games.

(i) Skill chute (bulldozer) (penny fall).

(A) The games in each of the following sentences require the ~~The~~ player inserts to insert a coin or token into a chute, aiming the coin or token so that it will fall in front of a continuous sweeper (bulldozer) operating on a

1 playing field containing additional coins, tokens, or
 2 merchandise. If the A coin or token that is aimed correctly,
 3 the will cause a sweeper (bulldozer) with operating on a
 4 playing field containing additional coins to push additional
 5 tokens-or-prizes coins into a counting mechanism that will
 6 convert the coins into tokens or tickets and dispense them
 7 to the player. A token that is aimed correctly will cause a
 8 sweeper (bulldozer) operating on a playing field containing
 9 additional tokens or merchandise to push the tokens or
 10 merchandise into a hole or chute that sends them to the
 11 player. A token that is aimed correctly will cause a sweeper
 12 (bulldozer) operating on a playing field containing
 13 additional tokens to push tokens into a hole or chute that
 14 sends them to the player or pushes tokens into a counting
 15 mechanism that will convert the tokens into tickets and
 16 dispense them to the player.

17 ~~(B) Tokens-are-exchanged-for--prizes--if--there--is--a~~
 18 ~~hidden There may not be a~~ ledge, tip, or similar obstruction
 19 that inhibits the passage of coins, tokens, or prizes
 20 merchandise into the counting mechanism, hole, or chute that
 21 sends them to the player, the operator shall post a sign to
 22 advise the players.

23 (ii) Tip-em-up bottle. The player is provided with a
 24 pole and a string that has a hoop or ring attached at the
 25 end. The player, using the pole with a ring, must raise a

1 bottle lying on its side to an upright position to win.

2 (iii) Hi-striker. The player, using a wooden maul, must
 3 strike a lever target that causes a metal weight to rise on
 4 a guideline or track and ring a bell. The player must ring
 5 the bell a predetermined number of times to win a prize.

6 (iv) Rope ladder. The player must climb up a rope
 7 ladder, which is anchored at both ends by a swivel, and ring
 8 a bell or buzzer to win a prize.

9 (v) Whac-a-mole. This is a group game that has a target
 10 surface with five holes through which animated moles pop up
 11 and down at random. The player must hit as many moles as
 12 possible with a mallet. The first player to hit a
 13 predetermined number of moles wins.

14 (vi) Dip bowling game. The player rolls a bowling-type
 15 ball over a hump in the track. If the ball stays on the back
 16 side of the hump, the player wins.

17 (vii) Horserace derby. This is a group game in which a
 18 player advances his a horse by shooting or rolling a ball in
 19 the target area. The faster and more skillfully the player
 20 shoots or rolls his a ball, the faster his the player's
 21 horse will run. The first horse to cross the finish line
 22 wins.

23 (viii) Shuffleboard. The player pushes a puck down a
 24 shuffleboard alley to knock over poly pins at the end of an
 25 alley. The player wins by knocking down all the pins.

(ix) Bean bag. The player tosses or throws a bean bag or a simulated bean bag at cans, bottles, or other objects on a raised platform. The player wins a prize when he either knocks the object off the raised platform or tips the target over.

(x) Soccer kick. The player kicks a soccer ball through a hole in the target area to win.

(xi) Frog game. A plastic frog or similar object sits on a small end of a teeter-totter. The opposite end of the teeter-totter is struck with a mallet, causing the frog to fly off the teeter-totter. If the frog lands in a pail or similar receptacle, the player wins a prize.

(xii) Cover the spot. The object of this game is for the player to drop five circular discs onto a circular spot, completely covering the spot. The diameter of each of the discs used to cover the spot must be a minimum of 64% of the diameter of the spot to be covered. The spot to be covered must be painted or drawn on a permanent, solid material, such as metal or wood, or may be a lighted circle. The spot and each disc must have a uniform diameter.

(xiii) Pocket billiards. Using a regulation pocket billiard table, a player must run a consecutive number of balls to win a prize. The number of balls is set by the operator."

Section 24. Section 41-5-203, MCA, is amended to read:

"41-5-203. Jurisdiction of the court. (1) Except as provided in subsection (2), the court has exclusive original jurisdiction of all proceedings under the Montana Youth Court Act in which a youth is alleged to be a delinquent youth, a youth in need of supervision, or a youth in need of care or concerning any person under 21 years of age charged with having violated any law of the state or ordinance of any city or town other than a traffic or fish and game law prior to having become 18 years of age.

(2) Justice, municipal, and city courts have concurrent jurisdiction with the youth court over all alcoholic beverage and gambling violations alleged to have been committed by a youth."

NEW SECTION. **Section 25.** Codification instruction. [Sections 5, 15 through 17, and 21] are intended to be codified as an integral part of Title 23, chapter 5, and the provisions of Title 23, chapter 5, apply to [sections 5, 15 through 17, and 21].

NEW SECTION. **Section 26.** Applicability. [Section 17] applies to agreements entered into after October 1, 1993.

-End-

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0411, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act generally revising the public gambling and amusement game laws of Montana.

ASSUMPTIONS:

1. The only penalties collected in the 1995 biennium will be civil or administrative, and \$80,000 will be collected in gambling penalties each fiscal year. This bill does not increase total revenue, it simply redistributes existing revenue by decreasing general fund revenue and increasing revenue to the gaming license fee state special revenue account and to local governments.
2. The bill will have no impact on current level Gambling Control Division expenditures in the Department of Justice. However, the estimated additional state special revenue revenue provided by the bill is needed to provide funds to maintain current level expenditures.

FISCAL IMPACT:

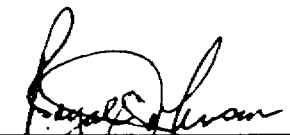
Revenues:

	FY '94			FY '95		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Gambling Penalties:						
General Fund	40,000	0	(40,000)	40,000	0	(40,000)
State Special Revenue (Gaming fees)	0	26,700	26,700	0	26,700	26,700
Total	40,000	26,700	(13,300)	40,000	26,700	(13,300)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Local governments would receive an additional \$13,300 per year in gambling penalty distributions.

 2-11-93
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2-11-93
ROYAL JOHNSON, PRIMARY SPONSOR DATE

Fiscal Note for HB0411, as introduced

HB 411

Several people involved in this ritual have contacted their county attorneys, who also contacted her. The people who contacted their attorneys requested anonymity because their lives have been threatened by those heavily involved in the cult rituals.

Proponents' Testimony:

REP. FISHER provided testimony from a constituent who was unable to testify during the hearing. EXHIBIT 6

Marcie Garay, parent of an abducted and abused son, discussed her son who had been abducted and abused by this cult. She emphasized that this cult is very active in Montana and believes it is absolutely necessary that parents, teachers and the police department become educated and aware of the ramifications of this activity. It cost \$85,000 to treat her son, and he is still under psychological treatment.

Opponents' Testimony: None.

Questions From Committee Members and Responses: None.

Closing by Sponsor: None.

HEARING ON HB 411

Opening Statement by Sponsor:

REP. ROYAL JOHNSON, House District 88, Billings, opened the hearing on this bill which generally revises the public gambling and amusement game laws of Montana. He introduced personnel from the Department of Justice to further explain the bill.

Proponents' Testimony:

Joe Mazurek, Attorney General, presented written testimony. EXHIBIT 7

Janet Jessup, Administrator, Department of Justice, presented written testimony. EXHIBIT 8

Opponents' Testimony:

Dennis Casey, Executive Director, Gaming Industry Association, stated that the Gaming Industry Association is concerned about two issues. First, the word felony is used throughout the bill.

A person who is convicted of a felony, under the gaming laws would have, in addition to paying a fine of \$1,000, his license removed and will not be issued another license. Secondly, the extension of credit is a misdemeanor for the first three offenses and then increases to a felony. With the fourth offense, all licenses are revoked. Extension of credit is not to be condoned, and the person should be punished. Mr. Casey believes that the difference in punishment between the acts of a multiple offender from a first time offender is just too high. GIA asked the committee to reject the language imposed on page 19 of the bill and in so doing, keep the present law intact.

Mark Staples, Attorney, Montana Tavern Association, said that the MTA would like to see one specific change: on page 11, lines 19-23, section 1, subsection 29, promotional devices should be limited only to games that are legal, and dinners would not be included in the game charges.

Larry Akey, Montana Coin Machine Operator's Association, presented written testimony. EXHIBIT 9

Questions From Committee Members and Responses:

CHAIRMAN FAGG asked Attorney General Mazurek to summarize his opinion and thoughts regarding the amendments proposed by the proponents and opponents. Attorney General Mazurek had a brief opportunity to review the amendments and offered his comments from a policy perspective on some of the proposals. With respect to felonies, Attorney General Mazurek believes something has to be a felony offense; it is five misdemeanors before it's a felony. There's a need to increase the situation for a felony at some point.

With respect to promotional games, this is a "big operator/little operator" issue. Big operators are able to obtain more games because more games bring in more money, and little operators don't have the funding to do this; that's a policy change. The Department of Justice believes there should be a limit on promotions, especially for larger operators.

Attorney General Mazurek said he may have to reexamine the issue on license operated premises. There may have been a distinction, but the intention generally was to not allow non-liquor license establishments to extend beyond the ownership of the individual owner. As the Department of Justice proposed the language of that bill, staff tried to write in some more clear definitions of how this would work. The Legislative Council suggested that language needed to be changed. What the department has proposed would benefit both sides. It's not a restricted entry battle; it requires the calling of any person who participated in the creating of an original document, and Attorney General Mazurek doesn't think that's an unreasonable proposal.

With respect to distribution of civil fines, it is Attorney General Mazurek's recommendation that any bill that goes through the legislature with a \$40,000 impact should be sent through the House Appropriations Committee.

CHAIRMAN FAGG asked Attorney General Mazurek to bring a new set of amendments on Tuesday, February 9. CHAIRMAN FAGG also asked Attorney General Mazurek to review the amendments proposed by the proponents, decide which ones he believes are appropriate, and incorporate them with his amendments.

REP. DAVE BROWN asked Mr. Akey if he recalls any discussions in the House with REP. GOULD and REP. BROWN during subcommittee action on the original rewrite of what is now considered state gambling laws where they went against that "believed industry position" and created a special category that only affected the Big Brothers and Sisters bingo operation in Missoula and Billings. Mr. Akey said he did remember that discussion. REP. BROWN then added, in doing that, REP. GOULD and he also created a situation where a private person's business could be passed on to his family only. If he sold his business to anyone else, it would be treated as any other business, that is, not able to have gambling without liquor. REP. BROWN said he had all the tapes from that subcommittee in their original form and would be happy to share them with Attorney General Mazurek.

REP. BROWN asked Steve Arnson, Silver Tip Casino, Missoula, to explain promotional tournament card games and what the net effect of the language of this proposed bill would have on tournament card games. Mr. Arnson said one of the reasons he chose not to discuss this area is because it's so confusing. He is not sure that the changes proposed on page 25 and 26, section 11 cleared up the confusion. This tournament language was put in the law specifically for commercial opportunists. It allowed an operator to have a big tournament up to 12 times per year. The proposed language changed on page 25, lines 15-17, section 11. Everyone knows in basic poker, that at the end of the hand, the winning player takes the winnings.

Mr. Arnson said there is a trade promotional tournament where patrons play on a legalized table for one to two hours to start the game once a week. In Missoula, for instance, there are four or five different card rooms. All of a sudden, this change would disallow that without filing for a fee permit through the Department of Justice, unless that's permitted 12 times per year. Speaking on behalf of himself, and not representing the poker industry, Mr. Arnson has but one issue with the wording of the bill. Small tournaments can be run on their own card tables without any restriction on the numbers, and this would put them into 12 times per year and make them put a license fee and an application for each one. Mr. Arnson suggested a simple amendment just to increase the number of times per year, possibly 24, which would solve that problem.

REP. BROWN said the language on page 28, section 14 appears to limit the ability to play up to ten Keno games consecutively; also for instance, some establishments allow a person to win \$600 instead of \$100 because the game allows a person to play with the same card six times rather than once. This appears to limit that, and he asked Ms. Jessup if that was intentional.

Ms. Jessup said that was not the intention. She spoke to the original drafter of the language, and the intent is merely to address Bingo games, not Keno. The intent was to make the game more interesting and rewarding. REP. BROWN asked Ms. Jessup if the committee can work with her to straighten out the language, and Ms. Jessup agreed.

In amendment number 3, where the Department of Justice wants to strike "or animal" or "and animal", REP. BROWN mentioned REP. ELLIS' constituent who races pigs for a prize, for example, and asked if it wouldn't be better to work out a solution in this bill that will surely pass in some form as opposed to REP. ELLIS' bill which may or may not. REP. BROWN'S main concern, as he understands the issue, is purely one of whether or not we separate parimutuel out from the rest of gambling on animals. He suggested using simple language that makes it clear that the Horse Racing Board has parimutuel betting on horses and mules, and everything else will be included in this bill to take care of the rules. Ms. Jessup said that, in studying this bill with REP. ELLIS, they had hoped that they would be moving towards that in this bill.

REP. BROWN asked Ms. Jessup, in the area of felony as it implies to a license (p. 28, lines 8-12 of bill), whether the Department of Justice is trying to hold the owner liable for any impropriety of the contractor, assuming it's not joint. Ms. Jessup said that if the operator is aware of the activity going on, or participates in that activity, there always is the potential for liability; however, the Department of Justice has the burden of proof that the operator knows this is happening, so it does not, in any way, change the way the cases are prosecuted.

Closing by Sponsor: None.

EXECUTIVE ACTION ON HB 409

Motion/Vote: REP. BROWN MOVED HB 409 DO PASS. Motion carried unanimously 18-0.

EXECUTIVE ACTION ON HB 282

Motion: REP. WHALEN MOVED HB 282 DO PASS.

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL

DATE

2-5-93

NAME	PRESENT	ABSENT	EXCUSED
Rep. Russ Fagg, Chairman	✓		
Rep. Randy Vogel, Vice-Chair	✓		
Rep. Dave Brown, Vice-Chair	✓		
Rep. Jodi Bird	✓		
Rep. Ellen Bergman	✓		
Rep. Vivian Brocke	✓		
Rep. Bob Clark	✓		
Rep. Duane Grimes	✓		
Rep. Scott McCulloch	✓		
Rep. Jim Rice	✓		
Rep. Angela Russell	✓		
Rep. Tim Savles	✓		
Rep. Liz Smith	✓		
Rep. Bill Tash	✓		
Rep. Howard Toole	✓		
Rep. Tim Whalen	✓		
Rep. Karyl Winslow	✓		
Rep. Diana Wyatt	✓		

HR:1993

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CS-09

STATE OF MONTANA
DEPARTMENT OF JUSTICE
GAMBLING CONTROL DIVISION

Joseph P. Mazurek
Attorney General



2687 Airport Road
PO Box 201424
Helena, MT 59620-1424

Department of Justice Substantive Amendments to Gambling Laws

The substantive changes as proposed by the Department and the Gambling Control Division, and as discussed by the Gaming Advisory Council, are summarized below. The type or category of the amendment is footnoted.

Section 1: Provides uniform compensation for Gaming Advisory Council Members (2-15-2021). This would pay Council members \$25 per day for Council activities. The Division had been paying compensation until the Legislative Auditor pointed out that the law creating the Advisory Council did not provided for payment, which conflicts with provisions in Title 2. The \$25 amount is typical for such activities.***

Section 2: Clarifies definitions to reflect actual activities in the gambling industry (example: defines a "route operator"). Also limits promotional activities to legal gambling activities only (23-5-112). The new language limits the use of promotional games of chance to those simulating a legal gambling enterprise. As such, no consideration should be paid to play. (See also Sections 11 and 12).***

Section 3: Redistributes criminal fines and penalties among local governments and the state (23-5-123). This recommendation would provide a split similar to current split of district court fees: one-third of funds collected through civil or administrative proceedings goes to the state (in this case, the Gambling Control Special Revenue Fund), and the remainder goes to the city or county where the violation occurred. If the violation occurs in a city, the county is not entitled to any of the funds.**

Section 4: Clarifies that the Department of Justice must have clear and convincing evidence before issuing a temporary cease and desist order (23-5-136). By including the words "clear and convincing evidence," the law would reflect the current practice and standards in use by the Division.**

New Section 5: Establishes "reasonable man standard" for the types of evidence that may be admitted during an administrative proceeding. This could allow the department or an applicant to admit into the record evidence that would pass the reasonable man standard.**

New Section 6 and 22: Clarifies the law with regard to the importation of illegal gambling devices for manufacturing purposes (23-5-152). Current law allows a manufacturer to import devices and the new language clarifies why a manufacturer would want to import illegal devices; i.e., to be reconditioned or repaired in part or substantially modified for eventual export out of the state.*

Section 7: Provides a felony penalty to the credit gambling law (23-5-157). This new language would define credit extended over \$300 as a felony violation.**

Page Two: Substantive Amendments

Sections 8 and 24: Provides penalty for minors violating the underage gambling law (23-5-158, 41-5-203). Currently there are no penalties for these violations; these revisions would establish a civil penalty not to exceed \$50 or as entered in proceedings held in youth court.**

Section 9: Clarifies shake-a-day provisions (23-5-160). Mostly clarification, making the game more like the one played in the past. The language would allow more than one game per day.*

Sections 10 and 19: Clarifies provisions regarding "grandfathered" establishments (23-5-306, 23-5-611) in accordance with the legislative intent of the 1989 law. States that only natural persons (not businesses) are allowed to be grandfathered for live card games and video gambling machines on off-premises (non-liquor) sites, and that this person must have continuously owned the establishment since January 15, 1989.*

Sections 11 and 12: Clarifies provisions on live card game tournaments (23-5-312 and 317). Clearly states that the legislative intent in allowing these tournaments was that such events be held only on occasion. The revisions would require that the operators use card games rules and would not allow them to roll-forward several games, resulting in a prize exceeding the current standard of \$300. In addition, it limits promotional card game prizes to \$300 and live bingo or keno promotional games to \$100 (23-5-312, 23-5-412). This would restrict the amount of cash prizes that can be given for promotional games of chance (where no consideration is paid to play).*, ***

Section 13: Clarifies language concerning operators' liability regarding illegal activities by contractors (23-5-324). The new language would make it clear that operators of gambling establishments are not automatically free of liability for illegal activities by contractors working on their premises if they allowed the activity to go on or participated in the activity. Any prosecution will still have to prove the operator had knowledge and intent.

Section 14: Redefines bingo to permit a game to consist of more than one arrangement of numbers (23-5-112, 412). Allows multiple games on one set of bingo balls, but awards cannot be combined so as to exceed \$100 as in current law.***

Section 15, 16, 18 and 20: Creates separate licenses for manufacturers, distributors, and route operators (23-5-112, 23-5-626, 23-5-631). Separate licenses would be required instead of one license which covers all three functions because these are very different activities. It would not prevent one entity from having multiple licenses and would better define the activities allowed. Furthermore, the Department could waive fees if more than one license was requested.***

New Section 17: Defines allowable route operator activities with regards to operators (23-5-625). Define the normal business relationship between a route operator and the premises operator.***

Page Three: Substantive Amendments

New Section 21: Identifies circumstances when an operator's license is not needed for the sale of video gambling machines. For example, lienholders acquiring the title through foreclosure (i.e., banks) can sell machines to licensed entities. Also, this new section reinstates the language being stricken from 23-5-625(2) which is converted to define "manufacturer".***

Section 23: Clarifies definition of a cakewalk amusement game and the skill chutes and bulldozer amusement games (23-6-104). These changes will help County Attorneys who are most likely to be called on to interpret the law in this area.*

- * Clarification of language or intent
- ** New or changed criminal penalties, or changed legal procedures
- *** Procedural changes

EXHIBIT #

DATE 2-5-93

HB 411

Amendments to House Bill 411
First Reading Copy

Prepared by Department of Justice

1. Page 18, line 11.

Following: line 11

Insert: "(iii) the illegal gambling device will be exported from the state; and"

2. Page 18, line 12.

Strike: "(iii)"

Insert: "(iv)"

3. Page 29, line 20.

Following: line 20

Insert:

Section 15. Section 23-5-501, MCA, is amended to read:

23-5-501. Definitions. As used in this part, unless the context clearly requires otherwise, the following definitions apply:

(1) "Sports pool" means a gambling activity, other than an activity governed under chapter 4 or chapter 5, part 2, of this title, in which a person wagers money for each chance to win money or other items of value based on the outcome of a sports event or series of sports events wherein the competitors in the sports event or series of sports events are natural persons ~~or animals~~.

(2) "Sports tab" means a folded or banded ticket with a face covered to conceal a combination of two numbers, with each number ranging from zero through nine.

(3) "Sports tab game" means a gambling enterprise conducted on a card to which 100 sports tabs are attached that have 100 different combinations for which consideration in money is paid by the person purchasing each tab. A person may purchase a sports tab from the card for the chance to win money or other items of value on a sports event as provided in 23-5-503.

Renumber remaining sections accordingly.

4. Page 30, line 18.

Following: "fee"

Insert: "and licensing fee"

5. Page 31, line 17.

Following: "fee"

Insert: "and licensing fee"

6. Page 37, line 12.

Following: "fee"

Insert: "and licensing fee"

7. Page 52, line 18.

Following: line 18

Insert:

NEW SECTION. Section 26. Coordination instruction. (1)
If [House Bill 142] is passed and approved, then [Section 7] is
amended to provide a consistent threshold dollar limit for a felony
offense.

Renumber remaining section accordingly.

Amendments to HB411, Introduced Copy
Proposed by the Montana Coin Machine Operators' Association

1. Page 7, line 1.

Following: "manufacturer"

Insert: ", distributor or route operator"

2. Page 7, line 3.

Following: "sells"

Insert: "or leases"

3. Page 10, line 15.

Following: "sells"

Insert: "or leases"

Following: "licensed"

Insert: "manufacturer,"

4. Page 12, line 15.

Following: "manufacturer"

Strike: "or"

Insert: ", route operator or"

5. Page 12, line 18.

Following: "(b)"

Inserts: "sells or"

6. Page 12, line 19 through 21.

Following: "public"

Strike: "; and"

Insert: "."

Strike: subsection (c) in its entirety.

7. Page 29, line 25.

Following: "(2)"

Strike: "The"

Insert: "Except as provided in subsection (6), the"

8. Page 30, line 17.

Following: "department"

Strike: "may"

Insert: "shall"

Following: "waive"

Insert: "the license fee provided for in subsection (2) if the applicant is licensed as a manufacturer or route operator and"

9. Page 30, line 24.

Following: "(2)"

Strike: "The"

Insert: "Except as provided in subsection (6), the"

10. Page 31, line 16.

Following: "department"

Strike: "may"

Insert: "shall"

Following: "waive"

Insert: "the license fee provided for in subsection (2) if the applicant is licensed as a manufacturer or distributor and"

11. Page 36, line 7.

Following: "(2)"

Strike: "The"

Insert: "Except as provided in subsection (6), the"

12. Page 37, line 11.

Following: "department"

Strike: "may"

Insert: "shall"

Following: "waive"

Insert: "the license fee provided for in subsection (2) if the applicant is licensed as a distributor or route operator and"

13. Page 32, line 9.

Following: "machine"

Insert: "and to pay out prizes won by the players"

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Judiciary
DATE *Feb. 5, 1993*

COMMITTEE

BILL NO. *HB 411*

SPONSOR(S)

R. Johnson

PLEASE PRINT

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<i>John E. Thomas</i> <i>128 Fairway Dr. Hel</i>	<i>BOP</i>		
<i>Craig S. Thomas</i> <i>300 Maryland Av. Deer Lodge</i>	<i>BOARD OF PARDONS</i>		
<i>Steve Arntzen</i> <i>P.O. Box 21138 Billings</i>	<i>GIA</i>		<i>X</i>
<i>Paul Ekke</i>	<i>GIA</i>		<i>X</i>
<i>Dennis Casry</i>	<i>Gaming Industry Assoc</i>		<i>X</i>
<i>Quint Jesso</i>	<i>Dept of Justice</i>	<i>✓</i>	
<i>SAM MURFITT</i>	<i>MROHA</i>		
<i>M. J. ...</i>	<i>Parent</i>	<i>✓</i>	
<i>DENNIS M. TAYLOR</i>	<i>JUSTICE</i>	<i>X</i>	
<i>Gloria Hennison</i>	<i>Domestic Violence of the Future</i>	<i>X</i>	
<i>Rob Smith</i>	<i>DOJ</i>	<i>X</i>	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Questions From Committee Members and Responses: None.

Closing by Sponsor: None.

HEARING ON HB 499

Opening Statement by Sponsor:

REP. JOHN COBB, House District 42, Augusta, explained that HB 499 states the Supreme Court shall appoint members of the Montana Bar as an examining board to assist in conducting the examination of applicants for admission to the bar. The board may not exceed seven members. The court may release, dismiss, or remove any member of the board and appoint other members at any time.

Proponents' Testimony: None

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor: None

EXECUTIVE ACTION ON HB 411

Motion: REP. BROWN MOVED HB 411 DO PASS.

Discussion:

Janet Jessup, Gambling Control Division Administrator, Department of Justice, offered amendments.

Mark Staples, Attorney, Montana Tavern Association, offered amendments.

Motion/Vote: REP. BROWN moved the Department of Justice's amendments. Amendments passed 16-1 with CHAIRMAN FAGG voting no, and REP. RUSSELL excused from voting. See Standing Committee Report.

Discussion:

REP. BROWN asked Mr. MacMaster if Amendment 5 represents REP. BILL STRIZICH'S position. Mr. MacMaster said he doesn't believe REP. STRIZICH feels comfortable using amendment 5. REP. STRIZICH preferred to add language to subsection 3a, page 17, line 20 that

states the Justice Department may also adopt rules allowing a person to bring illegal gambling devices into the state for escort from the state.

On page 18, line 12, subsection iii would be amended to say, "the licensee has notified the department that illegal gambling devices will be brought into the state for export from the state." Mr. MacMaster says if the state has to notify the Department of Justice who is going to bring illegal gambling devices into the state, and receive authorization, it takes away from the Department's amendment that says the state may bring illegal gambling devices into the state. To amend that, it should let the state know it's being notified that illegal gambling devices are being brought into the state, and take out the language "receive authorization."

REP. VOGEL asked where gambling devices are exported, and how they are kept track of. REP. BROWN reported that the Justice Department should be authorized to set up those rules.

CHAIRMAN FAGG spoke against REP. STRIZICH'S concept amendment, and said the Department of Justice did make some changes to his amendment. REP. STRIZICH preferred to take out the language and receive authorization from the Department of Justice. CHAIRMAN FAGG said that if somebody is going to bring illegal gambling machines into Montana, that's acceptable. But he believes the Department of Justice should be aware of that, and authorize that, so they can track exactly what's going on.

Motion: REP. BROWN moved an amendment. Page 52, section 25, is one of the areas the Gaming Industry Department disagreed with.

Discussion:

Page 26, section 11, lines 13, 14, 20, and 21 opposes prize limits on promotion games of chance involving live card games. The second amendment strikes the language imposing promotion games of chance involving Bingo and Keno.

Vote: The question was called on REP. BROWN'S amendment. The amendment failed 9-8 with REP. RUSSELL excused from voting.

Vote: HB 411 DO PASS AS AMENDED. Motion carried unanimously 17-0; REP. RUSSELL was excused from voting.

EXECUTIVE ACTION ON HB 346

Motion/Vote: REP. JIM RICE MOVED HB 346 DO PASS and moved an amendment to change the statute of limitations of the bill from one to three years, and to strike section 7 from the bill. This would leave the law the way it is, which is three years.

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL

DATE

Feb 12, 93

NAME	PRESENT	ABSENT	EXCUSED
Rep. Russ Fagg, Chairman	✓		
Rep. Randy Vogel, Vice-Chair	✓		
Rep. Dave Brown, Vice-Chair	✓		
Rep. Jodi Bird	✓		
Rep. Ellen Bergman	✓		
Rep. Vivian Brocke	✓		
Rep. Bob Clark	✓		
Rep. Duane Grimes	✓		
Rep. Scott McCulloch	✓		
Rep. Jim Rice	✓		
Rep. Angela Russell			✓
Rep. Tim Savles	✓		
Rep. Liz Smith	✓		
Rep. Bill Tash	✓		
Rep. Howard Toole	✓		
Rep. Tim Whalen	✓		
Rep. Karyl Winslow	✓		
Rep. Diana Wyatt	✓		

HR:1993

wp.rollcall.man

CS-09

HOUSE STANDING COMMITTEE REPORT

February 16, 1993

Page 1 of 3

Mr. Speaker: We, the committee on Judiciary report that House Bill 411 (first reading copy -- white) do pass as amended .

Signed: _____
Russ Fagg, Chair

And, that such amendments read:

1. Title, page 1, lines 21 through 24.

Strike: "PROVIDING" on line 21 through "CONTRACTOR;" on line 24

2. Title, page 2, lines 9 and 10.

Strike: "23-5-324," on line 9

Following: "23-5-412," on line 10

Insert: "23-5-501,"

Strike: "23-5-611," on line 10

3. Page 7, line 1.

Following: "manufacturer"

Insert: ", distributor, or route operator"

4. Page 11, line 22.

Following: "device"

Insert: "or enterprise"

5. Page 12, line 15.

Following: "manufacturer"

Insert: ", route operator,"

6. Pages 16 and 17.

Strike: line 25 of page 16 through line 1 of page 17

Insert: "consider hearsay evidence approved by the hearing examiner in a prehearing conference at which a determination is made that the evidence possesses sufficient guarantees of trustworthiness and does not involve a question of the credibility of a witness or of the credibility of a witness's subjective observations or analysis."

7. Page 13, line 12.

Following: line 11

Insert: "(iii) the illegal gambling device will be exported from the state; and"

Renumber: subsequent subsection

3. Page 19, lines 11 through 13.

Strike: "if the" on line 11 through "less" on line 13

9. Page 19, lines 15 through 17.

Strike: "if" on line 15 through "\$300" on line 17

Insert: "upon conviction of a third or subsequent offense"

10. Page 27, line 19 through page 23, line 12.

Strike: section 13 in its entirety

Renumber: subsequent sections

11. Page 28, lines 16 and 19.

Strike: "game"

Insert: "card"

12. Page 28, line 19.

Following: "award"

Insert: "game"

13. Page 29, line 21.

Following: line 20

Insert: "Section 14. Section 23-5-501, MCA, is amended to read:

"23-5-501. Definitions. As used in this part, unless the context clearly requires otherwise, the following definitions apply:

(1) "Sports pool" means a gambling activity, other than an activity governed under chapter 4 or chapter 5, part 2, of this title, in which a person wagers money for each chance to win money or other items of value based on the outcome of a sports event or series of sports events wherein the competitors in the sports event or series of sports events are natural persons ~~or animals~~.

(2) "Sports tab" means a folded or banded ticket with a face covered to conceal a combination of two numbers, with each number ranging from zero through nine.

(3) "Sports tab game" means a gambling enterprise conducted on a card to which 100 sports tabs are attached that have 100 different combinations for which consideration in money is paid by the person purchasing each tab. A person may purchase a sports tab from the card for the chance to win money or other items of value on a sports event as provided in 23-5-503."

Renumber: subsequent sections

14. Page 29, line 23.

Page 30, line 24.

Page 36, line 7.

Strike: "The"

Insert: "Except as provided in subsection (3) "

15. Page 30, line 17.

Following: "waive"

Insert: "the license fee provided for in subsection (2) if the applicant is licensed as a manufacturer or route operator and may waive"

16. Page 31, line 16.

Following: "waive"

Insert: "the license fee provided for in subsection (2) if the applicant is licensed as a manufacturer or distributor and may waive"

17. Page 32, line 9.

Following: "machine"

Insert: "and to pay out prizes won by players"

18. Page 34, line 5 through page 35, line 13.

Strike: section 19 in its entirety

Renumber: subsequent sections

19. Page 37, line 11.

Following: "waive"

Insert: "the license fee provided for in subsection (2) if the applicant is licensed as a distributor or route operator and may waive"

20. Page 52, line 15.

Strike: "21"

Insert: "20"

21. Page 52, line 13.

Strike: "21"

Insert: "20"

-END-

was drafted at the request of the Department of Justice. The amendments were discussed before the Gaming Advisory Council and their comments made were incorporated in the Bill. Ms. Jessup handed descriptions of amendments to gambling laws (Exhibits #1a and #1b). She said there was little substantive matter in HB 272. She said there was an amendment (HB027201.agp) that corrected the references between HB 272 and HB 411.

Larry Akey, Montana Coin Operators Association, said provisions of HB 272 clarified the gaming statutes.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Blaylock asked Janet Jessup if the only area of substantive matter was subsection 7. Ms. Jessup answered this section was only a clarification of current law.

Closing by Sponsor:

Representative Rice closed on HB 272.

HEARING ON 411

Opening Statement by Sponsor:

Representative Royal Johnson, House District 88, explained the Justice Department and people in the gambling industry had worked to draft HB 411. He explained the Bill changed the current law and would limit the personal activities of gaming route operators. The new language in HB 411 provides that in order to promote a game of chance, the game must be legal in Montana. Section 3 of the Bill provides the Department of Justice must have clear and convincing evidence before there can be an action taken against a person. Section 5 and section 20 provide that an operator who reconditions gambling devices can import and recondition devices not legal in Montana, but cannot sell them in Montana. The importation and sale of non-mechanical illegal gambling devices would stay illegal under HB 411. Section 6 provides for laws on loans and gambling credit, and section 7 provides a serious felony penalty for breaking the laws in section 6. Section 8 clarifies there may be more than one shake-a-day game per day. Sections 11 and 12 limit the total amount of money paid out to one person. Sections 14, 15, 17, and 18, provide for separate licenses for manufacturers, distributors, and route operators. Under these provisions, a person in the gambling industry could still take part in all of these

activities under one license, but would pay for the most expensive license. Section 16 defines legal route operator activities. Section 19 defines a situation where an operator's license is not required for a sale of a gambling machine that occurs if a person who repossesses a gambling machine needs to sell it. Section 21 clarifies games such as the Cake Walk Amusement game, and would make it easier for county attorneys to interpret the law.

Proponents' Testimony:

Janet Jessup, Department of Justice Gambling Control Division, explained the process by which HB 411 was developed. She said the Bill was crafted using questions that had developed about the current law. The Department of Justice requested the Bill, and the Gaming Advisory Council and representatives of the gambling industry were involved in the pre-drafting discussions.

Gloria Hermison, Don't Gamble with the Future, rose in support of HB 411.

Opponents' Testimony:

Larry Akey, Montana Coin Machine Operators, said HB 411 took one existing license and divided it into a manufacturer's license, a distributor's license, and a route operator's license. He said the Department of Justice had helped the operators amend the Bill to clarify these sections. He told the Committee the changes may not be necessary. He said Section 16 also affected operators.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Towe asked Janet Jessup if there was a section for games that may not be games of skill. Ms. Jessup said this Bill had the only section that listed amusement games. She mentioned HB 191, HB 307, and HB 411 that all addressed amusement games. She said nothing in these bills contradicted each other.

Senator Towe asked if the games listed in HB 411 were all coin operated games. Ms. Jessup answered some were cave games, or coin operated, and some were carnival games, some of which are not coin operated.

Senator Towe asked Ms. Jessup if they were scattered through the list or if it mattered. Ms. Jessup answered that it did not matter.

Senator Towe asked if the rule-making in HB 191 applied to what HB 411 would do. Ms. Jessup answered this was correct.

Senator Towe asked Ms. Jessup to clarify Section 16 dealing with the route operator's license. He said the apparent intent was to limit the responsibility of the route operators. He asked if the section limited responsibility or activity of the route operators. Ms. Jessup answered the section clarified the financial arrangements that could occur between the route operator and another operator. The Section lists areas of activity in the financial area that would be allowable.

Senator Towe asked Janet Jessup if supplying funds to allow an operator to exchange money for other coin or currency meant replenishing the coin box. Ms. Jessup answered this was correct.

Closing by Sponsor:

Representative Johnson closed on HB 411.

EXECUTIVE ACTION ON HB 307

Motion:

Senator Rye moved HB 307 BE CONCURRED IN. He withdrew his motion.

Motion\Vote:

Senator Doherty moved to amend HB 307 (HB030701.ajm). The Motion to amend HB 307 CARRIED UNANIMOUSLY with Senator Harp, Senator Blaylock, and Senator Crippen not voting.

Motion:

Senator Rye moved HB 307 BE CONCURRED IN AS AMENDED.

Discussion:

Senator Brown asked if the Bill conflicted with Representative Strizich's bill. Ms. Jessup answered the two bills were similar, and could be integrated. She said they dealt with different venues.

Motion\Vote:

The Motion that HB 307 BE CONCURRED IN AS AMENDED CARRIED UNANIMOUSLY with Senator Blaylock, Senator Harp, and Senator Crippen not voting.

Senator Yellowtail was assigned to carry HB 307 on the Senate Floor.

ROLL CALL

SENATE COMMITTEE Judiciary

DATE 3/17/93

NAME	PRESENT	ABSENT	EXCUSED
Senator Yellowtail	X		
Senator Doherty	X		
Senator Brown	X		
Senator Crippen	X		
Senator Grosfield	X		
Senator Halligan	X		
Senator Harp	X		
Senator Towe	X		
Senator Bartlett	X		
Senator Franklin	X		
Senator Blaylock	X		
Senator Rye	X		

F08

Attach to each day's minutes

vehicle could be taken away if the security interest was more than the value of the car.

Senator Towe withdrew his motion to Be Concurred In As Amended.

Motion:

Senator Halligan moved to amend HB 157.

Discussion:

Ms. Lane asked for clarification of the amendments. Ms. Lane said the first amendment would say in concept that the holder of the security interest would receive up to the amount of their interest or the amount received in the sale of the car, whichever is less. The second amendment would say in concept that a motor vehicle could be taken away if the security interest was more than the value of the car.

Vote:

The motion to amend CARRIED UNANIMOUSLY.

Motion/Vote:

Senator Towe moved HB 157 BE CONCURRED IN AS AMENDED. The motion CARRIED with Senators Crippen, Harp, and Doherty voting NO.

EXECUTIVE ACTION ON HB 411

Discussion:

Senator Doherty explained amendment hb041101.avl. (Exhibit #5)

Senator Doherty asked Janet Jessup, Gambling Control Division, if she would oppose amendment hb041101.avl. Ms. Jessup told the Committee that the Gambling Control Division would be opposed to the amendment because it substantially changes the language in HB 411. HB 411 was intended to clarify the legislative intent of the 1991 gambling law. Ms. Jessup said if the amendment passes the Gambling Control Division would not be able to control some devices that are brought into the state because they would be much more difficult to track. Ms. Jessup said the language included in HB 411 would not change current law or impact any jobs, but would cause enforcement problems.

Motion/Vote:

Senator Doherty moved to AMEND HB 411. The motion FAILED with Senators Doherty, Franklin, Bartlett and Harp voting YES.

Motion:

Senator Brown moved HB 411 BE CONCURRED IN.

Discussion:

Senator Towe asked Ms. Jessup if the Gambling Control Division was in support of HB 411. Ms. Jessup said yes.

Vote:

The Be Concurred motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 468

Motion:

Senator Towe moved to AMEND HB 468. (Exhibit #6)

Discussion:

Senator Towe explained amendment hb046801.avl.

Senator Brown asked Senator Bartlett about sentencing. Senator Bartlett said that by enabling the Department of Institutions to sentence a defendant to a prerelease center, it would decrease the population of the Montana State Prison.

Senator Blaylock said he asked a judge if they would concur with this and they said yes.

Senator Bartlett told the Committee that she was concerned that incidents could create problems amongst communities and then they in turn would turn against a community corrections program. Senator Bartlett encouraged the Department of Institutions not to be unrealistic in the goals that they set, in terms of the prison population, but to do the ground work in those communities to ensure that the approach to corrections is an acceptable practice and one that would work well.

Vote:

The motion to amend CARRIED by a Roll Call Vote.

Motion/Vote:

Senator Bartlett moved HB 468 BE CONCURRED IN AS AMENDED. The motion was tied by a Roll Call Vote therefore remaining before the Committee.

Motion:

Senator Halligan moved to strip item #1 through item #4 from amendment hb046801.avl.

ROLL CALL

SENATE COMMITTEE Judiciary DATE 3-26-93

NAME	PRESENT	ABSENT	EXCUSED
Senator Yellowtail	X		
Senator Doherty	X		
Senator Brown	X		
Senator Crippen	X		
Senator Grosfield	X		
Senator Halligan	X		
Senator Harp	X		
Senator Towe	X		
Senator Bartlett	X		
Senator Franklin	X		
Senator Blaylock	X		
Senator Rye	X		

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 26, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 411 (third reading copy -- blue), respectfully report that House Bill No. 411 be concurred in.

Signed: Wm Yellowtail
Senator William "Bill" Yellowtail, Chair

AC Amd. Coord.
W Sec. of Senate

Yellowtail
Senator Carrying Bill

681518SC.San

Amendments to House Bill No. 411
Third Reading Copy

Requested by Senator Doherty
For the Committee on Judiciary

Prepared by Valencia Lane
March 24, 1993

1. Page 18, line 18.

Strike: "and"

Insert: "or"

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 5
DATE 3-26-93
BILL NO. HB411